

## SENATE BILL No. 78

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-11-4-6.

**Synopsis:** Transmission of overseas and other ballots. Requires each circuit court clerk to certify either of the following on the forty-third day before a primary, general, or special election: (1) The county election board has sent an absentee ballot to each absent uniformed services voter, overseas voter, and address confidentiality program participant who has applied for an absentee ballot not later than 45 days before the election. (2) If (1) does not apply, the reason that an absentee ballot has not been sent to each of those voters and the steps that have been, or will be, taken to send absentee ballots to those voters.

**Effective:** January 1, 2017.

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## Banks

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January 5, 2016, read first time and referred to Committee on Elections.

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Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## SENATE BILL No. 78

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 3-11-4-6, AS AMENDED BY P.L.128-2015,  
2 SECTION 158, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JANUARY 1, 2017]: Sec. 6. (a) This section applies,  
4 notwithstanding any other provision of this title, to absentee ballot  
5 applications for the following:  
6 (1) An absent uniformed services voter.  
7 (2) An address confidentiality program participant (as defined in  
8 IC 5-26.5-1-6).  
9 (3) An overseas voter.  
10 (b) A county election board shall make blank absentee ballot  
11 applications available for persons covered by this section. A person  
12 may apply for an absentee ballot at any time after the registration  
13 period resumes under IC 3-7-13-10.  
14 (c) A person covered by this section may apply for an absentee  
15 ballot for the next scheduled primary, general, or special election at any  
16 time by filing either of the following:  
17 (1) A combined absentee registration form and absentee ballot



request approved under 52 U.S.C. 20301(b)(2).

(2) A form prescribed under IC 3-5-4-8 that identifies the applicant as an absent uniformed services voter or an overseas voter. A form prescribed under this subdivision must permit the applicant to designate whether the applicant wishes to receive the absentee ballot by electronic mail, fax, or United States mail.

(d) If the county election board receives an absentee ballot application from a person described by subsection (c), the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under section 15 of this chapter, unless the person has indicated under subsection (c) that the person wishes to receive the absentee ballot by electronic mail or fax.

(e) Whenever a voter files an application for an absentee ballot and indicates on the application that the voter is an absent uniformed services voter or an overseas voter, the application is an adequate application for an absentee ballot for an election conducted during the period that ends on December 31 following the date the application is filed, unless an absentee ballot mailed to the voter at the address set forth in the application is returned to the county election board during that period as undeliverable. The circuit court clerk and county election board shall process this application and send general election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter. If a voter entitled to receive an absentee ballot under this subsection subsequently files a voter registration application for a change of address within the same county or for a change of name or other information set forth in the voter's registration record, the previously approved absentee ballot application remains effective for the same period, unless the acknowledgment notice sent to the voter at that address is returned by the United States Postal Service due to an unknown or insufficient address in accordance with IC 3-7-33-5. If a voter entitled to receive an absentee ballot under this subsection subsequently files a voter registration application for an address that is not located in the same county, the voter must file a new absentee ballot application under this section with the appropriate county election board.

(f) Whenever a voter described in subsection (a)(2) files an application for a primary election absentee ballot and indicates on the application that the voter is an address confidentiality program participant, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a



special election conducted during the period that ends on December 31 following the date the application is filed. The circuit court clerk and county election board shall process this application and send general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(g) The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

(1) To a law enforcement agency, upon request.

(2) As directed by a court order.

(h) The county election board shall by fax or electronic mail transmit an absentee ballot to and receive an absentee ballot from an absent uniformed services voter or an overseas voter by electronic mail or fax at the request of the voter indicated in the application filed under this section. If the voter wants to submit absentee ballots by fax or electronic mail, the voter must separately sign and date a statement submitted with the electronic mail or the fax transmission that states substantively the following: "I understand that by faxing or e-mailing my voted ballot I am voluntarily waiving my right to a secret ballot."

(i) The county election board shall send confirmation to a voter described in subsection (h) that the voter's absentee ballot has been received as follows:

(1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.

(2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.

(3) If:

(A) the voter does not provide a fax number or an electronic mail address; or

(B) the number or address provided does not permit the board to send the confirmation not later than the end of the first business day after the board receives the voter's absentee ballot;



1 the county election board shall send the confirmation by United  
2 States mail.

3 The county election board shall send the confirmation required by this  
4 subsection not later than the end of the first business day after the  
5 county election board receives the voter's absentee ballot.

6 (j) Upon approval of the voter's absentee ballot application, a county  
7 election board shall transmit an absentee ballot to an absent uniformed  
8 services voter or an overseas voter by electronic mail under a program  
9 authorized and administered by the Federal Voting Assistance Program  
10 of the United States Department of Defense or directly to the voter at  
11 the voter's electronic mail address, if requested to do so by the voter. A  
12 voter described by this section may transmit the voted absentee ballot  
13 to a county election board by electronic mail. If a voter described in  
14 this section transmits the voted absentee ballot through the United  
15 States Department of Defense program, the ballot must be transmitted  
16 in accordance with the procedures established under that program. An  
17 electronic mail message transmitting a voted absentee ballot under this  
18 subsection must include a digital image of the voter's signature on the  
19 statement required under subsection (h).

20 **(k) For purposes of this subsection, "voter" refers to a voter**  
21 **described in subsection (a) who has submitted an application for an**  
22 **absentee ballot under this section not later than forty-five (45) days**  
23 **before a primary, general, or special election. On the forty-third**  
24 **day before the election, the circuit court clerk shall certify, under**  
25 **the penalties for perjury, that one (1) of the following applies:**

26 **(1) An absentee ballot has been sent to each voter who has**  
27 **applied for an absentee ballot under this section.**

28 **(2) If subdivision (1) does not apply, the following**  
29 **information:**

30 **(A) That an absentee ballot has not been sent to each voter**  
31 **who has applied for an absentee ballot under this section.**

32 **(B) The reason that an absentee ballot has not been sent to**  
33 **each voter who has applied for an absentee ballot under**  
34 **this section.**

35 **(C) The steps that have been, or will be, taken to send**  
36 **absentee ballots to those voters who have not been sent**  
37 **absentee ballots.**

38 **The certification required by this subsection shall be transmitted**  
39 **to the election division using the computerized list under**  
40 **IC 3-7-26.3 not later than the forty-third day before the election.**

